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August 24, 2022

*Via ECF*

Hon. Jeremiah McCarthy  
United States Magistrate Judge  
Western District of New York  
Robert H. Jackson United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202

Dear Judge McCarthy:

Re: Moog v. Skyrise, et al.; 1:22-cv-00187

Last night, Skyrise made an unauthorized additional filing in further support of its Motion to Dismiss or Transfer Venue (the “Motion”). That filing—made less than 48 hours prior to the scheduled hearing on the Motion this Thursday, August 25—includes not only an additional memorandum of law, but also a new factual declaration from Skyrise’s general counsel, Jeri Looney. The filing is improper not only because Skyrise has already been given an opportunity to supplement their fully briefed, fully submitted Motion, but also because Skyrise was well aware of the March 9 Order when they filed each and every one of their prior briefs. Leave should not be granted to consider this additional briefing.

However, in the event that the Court is prepared to permit the submission, plaintiff Moog respectfully requests a continuance of the hearing scheduled for tomorrow with respect to the Motion as well as the Individual Defendants’ Motion to Dismiss, so that Moog has sufficient time to submit a response to Skyrise’s filing. Moog should not be required to respond to this submission orally, and also should have the opportunity to evaluate whether it wishes to submit additional evidence in response to Ms. Looney’s declaration. Moog requests a minimum of one week from today (Thursday, September 1) to submit such response.

Finally, Moog respectfully requests that the hearing tomorrow proceed with respect to its emergency application for clarification [Dkt. 226] and the motions regarding restoration and clawback of electronic devices [Dkts. 228, 229], but that the hearing on the motions to dismiss be rescheduled to the previously-scheduled September 12 hearing.

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We thank the Court for its consideration of these requests.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "RDutta", written over a horizontal line.

Reetuparna Dutta

RED:

cc: Service List